

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 12 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE ORTIZ-GONZALES,

Defendant - Appellant.

No. 05-50195

D.C. No. CR-04-01159-DMS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Jose Ortiz-Gonzales appeals his guilty-plea conviction and 51-month sentence imposed for illegal re-entry into the United States following deportation and fraud and misuse of entry documents, in violation of 8 U.S.C. § 1326(a) and 18 U.S.C. § 1546.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Ortiz-Gonzales has filed a brief and a motion to withdraw as counsel of record, stating there are no grounds for relief. Ortiz-Gonzales has filed a pro se supplemental brief.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988). We affirm the conviction. We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). See *United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005) (concluding that a limited remand is warranted in all pending direct appeals involving unpreserved *United States v. Booker*, 543 U.S. 220 (2005), errors, whether constitutional or nonconstitutional).

Counsel's motion to withdraw as counsel on appeal is denied.

The conviction is **AFFIRMED**, and the sentence is **REMANDED**.